

HOUSE BILL No. 5063

October 5, 2017, Introduced by Reps. Green, Hertel, Elder, Yaroch, Yanez, Robinson, Rabhi, Jones, McCready, Chirkun, Sabo, Brann, Gay-Dagnogo, Geiss, Lucido, Moss, Hoadley and Pagan and referred to the Committee on Law and Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 50 (MCL 750.50), as amended by 2007 PA 152.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 50. (1) As used in this section and section 50b:

2 (a) "Adequate care" means the provision of sufficient food,
3 water, shelter, sanitary conditions, exercise, and veterinary
4 medical attention in order to maintain an animal in a state of good
5 health.

6 (b) "Animal" means ~~any~~ **A** vertebrate other than a human being.

7 ~~— (c) "Animal protection shelter" means a facility operated by a~~
8 ~~person, humane society, society for the prevention of cruelty to~~
9 ~~animals, or any other nonprofit organization, for the care of~~
10 ~~homeless animals.~~

11 **(C)** ~~(d)~~ "Animal control shelter" means a facility operated by

1 a county, city, village, or township to impound and care for
2 animals found in streets or otherwise at large contrary to ~~any~~**AN**
3 ordinance of the county, city, village, or township or state law.

4 (D) **"ANIMAL PROTECTION SHELTER" MEANS A FACILITY OPERATED BY A**
5 **PERSON, HUMANE SOCIETY, SOCIETY FOR THE PREVENTION OF CRUELTY TO**
6 **ANIMALS, OR ANY OTHER NONPROFIT ORGANIZATION, FOR THE CARE OF**
7 **HOMELESS ANIMALS.**

8 (e) "Licensed veterinarian" means a person licensed to
9 practice veterinary medicine under article 15 of the public health
10 code, 1978 PA 368, MCL 333.16101 to 333.18838.

11 (f) "Livestock" means that term as defined in **SECTION 5 OF** the
12 animal industry act, ~~of 1987,~~ 1988 PA 466, MCL ~~287.701 to~~
13 ~~287.747-~~**287.705.**

14 (g) "Person" means an individual, partnership, limited
15 liability company, corporation, association, governmental entity,
16 or other legal entity.

17 (h) "Neglect" means to fail to sufficiently and properly care
18 for an animal to the extent that the animal's health is
19 jeopardized.

20 (i) "Sanitary conditions" means space free from health hazards
21 including excessive animal waste, overcrowding of animals, or other
22 conditions that endanger the animal's health. ~~This definition does~~
23 **SANITARY CONDITIONS DO** not include any condition resulting from a
24 customary and reasonable practice pursuant to farming or animal
25 husbandry.

26 (j) "Shelter" means adequate protection from the elements and
27 weather conditions suitable for the age, species, and physical

1 condition of the animal so as to maintain the animal in a state of
2 good health. Shelter, for livestock, includes structures or natural
3 features such as trees or topography. Shelter, for a dog, includes
4 1 or more of the following:

5 (i) The residence of the dog's owner or other individual.

6 (ii) A doghouse that is an enclosed structure with a roof and
7 of appropriate dimensions for the breed and size of the dog. The
8 doghouse ~~shall~~**MUST** have dry bedding when the outdoor temperature
9 is or is predicted to drop below freezing.

10 (iii) A structure, including a garage, barn, or shed, that is
11 sufficiently insulated and ventilated to protect the dog from
12 exposure to extreme temperatures or, if not sufficiently insulated
13 and ventilated, contains a doghouse as provided under subparagraph
14 (ii) that is accessible to the dog.

15 (k) "State of good health" means freedom from disease and
16 illness, and in a condition of proper body weight and temperature
17 for the age and species of the animal, unless the animal is
18 undergoing appropriate treatment.

19 (l) "Tethering" means the restraint and confinement of a dog
20 by use of a chain, rope, or similar device.

21 (m) "Water" means potable water that is suitable for the age
22 and species of animal **AND** that is made regularly available unless
23 otherwise directed by a licensed veterinarian.

24 (2) An owner, possessor, or person having the charge or
25 custody of an animal shall not do any of the following:

26 (a) Fail to provide an animal with adequate care.

27 (b) Cruelly drive, work, or beat an animal, or cause an animal

1 to be cruelly driven, worked, or beaten.

2 (c) Carry or cause to be carried in or upon a vehicle or
3 otherwise any live animal having the feet or legs tied together,
4 other than an animal being transported for medical care, or a horse
5 whose feet are hobbled to protect the horse during transport or in
6 any other cruel and inhumane manner.

7 (d) Carry or cause to be carried a live animal in or upon a
8 vehicle or otherwise without providing a secure space, rack, car,
9 crate, or cage, in which livestock may stand, and in which all
10 other animals may stand, turn around, and lie down during
11 transportation, or while awaiting slaughter. As used in this
12 subdivision, for purposes of transportation of sled dogs, "stand"
13 means sufficient vertical distance to allow the animal to stand
14 without its shoulders touching the top of the crate or
15 transportation vehicle.

16 (e) Abandon an animal or cause an animal to be abandoned, in
17 any place, without making provisions for the animal's adequate
18 care, unless premises are vacated for the protection of human life
19 or the prevention of injury to a human **BEING**. An animal that is
20 lost by an owner or custodian while traveling, walking, hiking, or
21 hunting is not abandoned under this section when the owner or
22 custodian has made a reasonable effort to locate the animal.

23 (f) Negligently allow any animal, including one who is aged,
24 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
25 suffer unnecessary neglect, torture, or pain.

26 (g) Tether a dog unless the tether is at least 3 times the
27 length of the dog as measured from the tip of its nose to the base

1 of its tail and is attached to a harness or nonchoke collar
2 designed for tethering.

3 **(H) LEAVE OR CONFINE AN ANIMAL IN AN UNATTENDED MOTOR VEHICLE**
4 **UNDER CONDITIONS THAT ENDANGER THE HEALTH OR WELL-BEING OF THE**
5 **ANIMAL, INCLUDING, BUT NOT LIMITED TO, HEAT, COLD, LACK OF ADEQUATE**
6 **VENTILATION, LACK OF FOOD OR WATER, OR OTHER CIRCUMSTANCES THAT**
7 **COULD REASONABLY BE EXPECTED TO CAUSE SUFFERING, DISABILITY, OR**
8 **DEATH OF THE ANIMAL.**

9 (3) If an animal is impounded and is being held by an animal
10 control shelter or its designee or an animal protection shelter or
11 its designee or a licensed veterinarian pending the outcome of a
12 criminal action charging a violation of this section or section
13 50b, before final disposition of the criminal charge, the
14 prosecuting attorney may file a civil action in the court that has
15 jurisdiction of the criminal action, requesting that the court
16 issue an order forfeiting the animal to the animal control shelter
17 or animal protection shelter or to a licensed veterinarian before
18 final disposition of the criminal charge. The prosecuting attorney
19 shall serve a true copy of the summons and complaint upon the
20 defendant and upon a person with a known ownership interest or
21 known security interest in the animal or a person who has filed a
22 lien with the secretary of state ~~in an~~ **ON THE** animal. ~~involved in~~
23 ~~the pending action.~~ The forfeiture of an animal under this section
24 encumbered by a security interest is subject to the interest of the
25 holder of the security interest ~~who~~ **IF HE OR SHE** did not have prior
26 knowledge of ~~—~~ **DID NOT** consent to the commission of the crime.
27 Upon the filing of the civil action, the court shall set a hearing

1 on the complaint. The hearing ~~shall~~**MUST** be conducted within 14
2 days of the filing of the civil action, or as soon as practicable.
3 The hearing ~~shall~~**MUST** be before a judge without a jury. At the
4 hearing, the prosecuting attorney has the burden of establishing by
5 a preponderance of the evidence that a violation of this section or
6 section 50b occurred. If the court finds that the prosecuting
7 attorney has met this burden, the court shall order immediate
8 forfeiture of the animal to the animal control shelter or animal
9 protection shelter or the licensed veterinarian unless the
10 defendant, within 72 hours of the hearing, submits to the court
11 clerk cash or other form of security in an amount determined by the
12 court to be sufficient to repay all reasonable costs incurred, and
13 anticipated to be incurred, by the animal control shelter or animal
14 protection shelter or the licensed veterinarian in caring for the
15 animal from the date of initial impoundment to the date of trial.
16 If cash or other security has been submitted, and the trial in the
17 action is continued at a later date, any order of continuance ~~shall~~
18 **MUST** require the defendant to submit additional cash or security in
19 an amount determined by the court to be sufficient to repay all
20 additional reasonable costs anticipated to be incurred by the
21 animal control shelter or animal protection shelter or the licensed
22 veterinarian in caring for the animal until the new date of trial.
23 If the defendant submits cash or other security to the court under
24 this subsection the court may enter an order authorizing the use of
25 that ~~money~~**CASH** or other security before final disposition of the
26 criminal charges to pay the reasonable costs incurred by the animal
27 control shelter or animal protection shelter or the licensed

1 veterinarian in caring for the animal from the date of impoundment
2 to the date of final disposition of the criminal charges. The
3 testimony of a person at a hearing held under this subsection is
4 not admissible against him or her in any criminal proceeding except
5 in a criminal prosecution for perjury. The testimony of a person at
6 a hearing held under this subsection does not waive the person's
7 constitutional right against self-incrimination. An animal seized
8 under this section or section 50b is not subject to any other civil
9 action pending the final judgment of the forfeiture action under
10 this subsection.

11 (4) A person who violates subsection ~~(2)~~ **(2) (A) TO (G)** is
12 guilty of a crime as follows:

13 (a) Except as otherwise provided in subdivisions (c) and (d),
14 if the violation involved 1 animal, the person is guilty of a
15 misdemeanor punishable by 1 or more of the following and may be
16 ordered to pay the costs of prosecution:

17 (i) Imprisonment for not more than 93 days.

18 (ii) A fine of not more than \$1,000.00.

19 (iii) Community service for not more than 200 hours.

20 (b) Except as otherwise provided in subdivisions (c) and (d),
21 if the violation involved 2 or 3 animals or the death of any
22 animal, the person is guilty of a misdemeanor punishable by 1 or
23 more of the following and may be ordered to pay the costs of
24 prosecution:

25 (i) Imprisonment for not more than 1 year.

26 (ii) A fine of not more than \$2,000.00.

27 (iii) Community service for not more than 300 hours.

1 (c) If the violation involved 4 or more animals but fewer than
2 10 animals or the person had 1 prior conviction under subsection
3 (2), the person is guilty of a felony punishable by 1 or more of
4 the following and may be ordered to pay the costs of prosecution:

5 (i) Imprisonment for not more than 2 years.

6 (ii) A fine of not more than \$2,000.00.

7 (iii) Community service for not more than 300 hours.

8 (d) If the violation involved 10 or more animals or the person
9 had 2 or more prior convictions for violating subsection (2), the
10 person is guilty of a felony punishable by 1 or more of the
11 following and may be ordered to pay the costs of prosecution:

12 (i) Imprisonment for not more than 4 years.

13 (ii) A fine of not more than \$5,000.00.

14 (iii) Community service for not more than 500 hours.

15 **(5) A PERSON WHO VIOLATES SUBSECTION (2) (H) IS GUILTY OF A**
16 **CRIME AS FOLLOWS:**

17 **(A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (B) TO (D),**
18 **THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT**
19 **FOR NOT MORE THAN 45 DAYS OR A FINE OF NOT MORE THAN \$350.00, OR**
20 **BOTH.**

21 **(B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D),**
22 **FOR A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (2) (H), THE**
23 **PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR**
24 **NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.**

25 **(C) IF THE VIOLATION RESULTS IN SERIOUS PHYSICAL HARM TO THE**
26 **ANIMAL, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY**
27 **IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN**

1 \$1,000.00, OR BOTH. AS USED IN THIS SUBDIVISION, "SERIOUS PHYSICAL
2 HARM" MEANS ANY PHYSICAL INJURY TO AN ANIMAL THAT SERIOUSLY IMPAIRS
3 THE ANIMAL'S HEALTH OR PHYSICAL WELL-BEING.

4 (D) IF THE VIOLATION RESULTS IN THE DEATH OF THE ANIMAL, THE
5 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
6 MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

7 (6) ~~(5)~~—The court may order a person convicted of violating
8 subsection (2) to be evaluated to determine the need for
9 psychiatric or psychological counseling and, if determined
10 appropriate by the court, to receive psychiatric or psychological
11 counseling. The evaluation and counseling ~~shall be~~ **IS** at the
12 defendant's own expense.

13 ~~——(6)~~—This section does not prohibit a person from being charged
14 with, convicted of, or punished for any other violation of law
15 arising out of the same transaction as the violation of this
16 section.

17 (7) The court may order a term of imprisonment imposed for a
18 violation of this section to be served consecutively to a term of
19 imprisonment imposed for any other crime including any other
20 violation of law arising out of the same transaction as the
21 violation of this section.

22 (8) As a part of the sentence for a violation of subsection
23 (2), the court may order the defendant to pay the costs of the
24 care, housing, and veterinary medical care for the animal, as
25 applicable. If the court does not order a defendant to pay all of
26 the applicable costs listed in this subsection, or orders only
27 partial payment of these costs, the court shall state on the record

1 the reason for that action.

2 (9) As a part of the sentence for a violation of subsection
3 (2), the court may, as a condition of probation, order the
4 defendant not to own or possess an animal for a period of time not
5 to exceed the period of probation. If a person is convicted of a
6 second or subsequent violation of subsection (2), the court may
7 order the defendant ~~not~~ to **NOT** own or possess an animal for any
8 period of time, including permanent relinquishment of animal
9 ownership.

10 (10) A person who owns or possesses an animal in violation of
11 an order issued under subsection (9) is subject to revocation of
12 probation if the order is issued as a condition of probation. A
13 person who owns or possesses an animal in violation of an order
14 issued under subsection (9) is also subject to the civil and
15 criminal contempt power of the court, and if found guilty of
16 criminal contempt, may be punished by imprisonment for not more
17 than 90 days, or by a fine of not more than \$500.00, or both.

18 (11) This section does not prohibit the lawful killing or
19 other use of an animal, including the following:

20 (a) Fishing.

21 (b) Hunting, trapping, or wildlife control regulated under the
22 natural resources and environmental protection act, 1994 PA 451,
23 MCL 324.101 to 324.90106.

24 (c) Horse racing.

25 (d) The operation of a zoological park or aquarium.

26 (e) Pest or rodent control regulated under part 83 of the
27 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.8301 to 324.8336.

2 (f) Farming or a generally accepted animal husbandry or
3 farming practice involving livestock.

4 (g) Activities authorized under rules promulgated under
5 section 9 of the executive organization act of 1965, 1965 PA 380,
6 MCL 16.109.

7 (h) Scientific research under 1969 PA 224, MCL 287.381 to
8 287.395.

9 (i) Scientific research under sections 2226, 2671, 2676, and
10 7333 of the public health code, 1978 PA 368, MCL 333.2226,
11 333.2671, 333.2676, and 333.7333.

12 (12) This section does not apply to a veterinarian or a
13 veterinary technician lawfully engaging in the practice of
14 veterinary medicine under part 188 of the public health code, 1978
15 PA 368, MCL 333.18801 to 333.18838.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after the date it is enacted into law.